

## **EXHIBIT 11**

# **DEFENDANT'S CORRECTIVE ACTION POLICY**

Redacted

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## **University Policies**

# **Corrective Action for Staff Employees Not Covered By a Union**

HR-08-40



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## About This Policy

**Effective Date:**

01-01-1994

**Date of Last Review/Update:**

08-06-2020

**Responsible University Office:**

Human Resources

**Responsible University Administrator:**

Vice President and Chief Human Resources Officer

**Policy Contact:**

Redacted

**Policy Feedback:**

If you have comments or questions about this policy, let us know with the Redacted

## Scope

This policy applies to all Staff employees, except for those employees covered by an agreement with AFSCME Service, AFSCME Police, or CWA. (Other correction action policies apply to these union covered employees.)

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## Policy Statement

### The Employee Relationship

1. The University's policies, procedures, rules, and regulations are not intended to create a contract of employment, and shall not otherwise create any legal rights or contractual obligations, between the University and the employee. The employer-employee relationship is at-will.
2. An employee may terminate their employment with the University for any reason, with or without cause or notice. Likewise, the University may terminate an employee for any reason, with or without cause or notice.
3. The employment relationship may be modified only by prior written approval of the President, the Board of Trustees, or their designees. Additionally, no employee may be employed under an employment agreement unless the agreement has been approved in writing by the President, the Board of Trustees, or their designees.
4. The University supports a process of progressive discipline to address employee work performance and conduct issues, while reserving the ability to immediately terminate in instances of serious harm or misconduct.
  - a. Supervisors shall consult with a campus Human Resources office or University Human Resources prior to termination of an employee relationship.
  - b. In the event a supervisor intends to *immediately* terminate an employee, they shall consult with both a campus Human Resources office and University Human Resources prior to termination.
5. The University has adopted the below procedures to address these issues. These procedures are intended to be guidelines only, and the University may, in its discretion, deviate from them. Any deviation from the procedures set forth below requires consultation and approval from University Human Resources.

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## Reason for Policy

The purpose of this policy is to describe the nature of the employer-employee relationship in order to provide direction for supervisors in addressing employee performance, conduct and discipline issues.

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## Procedures

### Progressive Discipline

1. In those instances where an employee's work performance or conduct falls below University standards, the University will take corrective action that it deems in its discretion to be necessary and appropriate. As part of this process, the University follows progressive discipline procedures to provide employees with notice of problems about their performance or conduct, in order to provide an opportunity to correct these problems. Progressive discipline, however, is not mandatory, and exceptions or deviations from the normal procedure may occur whenever the University, in its discretion, deems that circumstances warrant skipping one or more steps in the progressive discipline procedure.
2. Supervisors are expected to regularly communicate with employees regarding work expectations and performance matters. This may include a consultation with an employee, when a specific performance or conduct issue is identified, in order to provide direction for necessary and successful correction. Supervisors are encouraged to utilize regular performance feedback, as well as performance improvement plans, if needed, to communicate with employees. Most employee performance and conduct issues can be addressed in the above manner.
3. When *formal* corrective action is necessary to address an employee performance or conduct issue, supervisors should normally apply the following progressive discipline procedure:
  - a. **Written Warning(s).** Supervisors should provide a written warning to identify the performance or conduct issue, set forth the expectations for improvement or correction, and provide written warning of the next step of corrective action in the event the employee fails to improve. Depending on the performance or conduct issue, including its severity and duration, subsequent or additional written warnings may be appropriate and are at the supervisor's discretion.

- b. **Final Written Warning and Suspension.** In the event the employee performance or conduct issue is not corrected, supervisors should provide the employee a final written warning explaining that termination will result if the employee does not show immediate improvement.
    - i. With notice and consultation with a campus Human Resources office or University Human Resources, a final written warning may be combined with a suspension as a form of discipline.
  - c. **Termination.** If the employee's performance or conduct issue is not corrected, supervisors may terminate the employee following notice and consultation with a campus Human Resources office or University Human Resources.
4. **Documentation, Notice and Opportunity to Respond.** At all stages of *formal* corrective action, supervisors should provide advance notice to the employee regarding the performance or conduct at issue, and provide the employee an opportunity to respond. Following notice and the employee's opportunity to respond, supervisors should determine the appropriate corrective action. At all stages of *formal* corrective action, the supervisor shall document the action taken in writing, setting forth the reasons for the particular corrective action or termination, and provide a copy to the employee and to the employee's personnel file. (Supervisors shall consult with a campus Human Resources office or University Human Resources, before notice of termination is provided to the employee.)
5. **New-Employee Evaluation Period.** Supervisors should offer employment to a prospective Staff employee contingent on a probationary period referred to as a *new-employee evaluation period*. During the new-employee evaluation period, performance and conduct issues may result in a more immediate termination of employment, and the foregoing recommended steps of corrective action need not apply. Successful completion of the new-employee evaluation period is necessary for continued employment with the University.
6. Indiana University prohibits discrimination based on arbitrary considerations of such characteristics as age, color, disability, ethnicity, gender, gender identity, marital status, national origin, race, religion, sexual orientation, or veteran status.

### **Immediate Involuntary Termination**

1. The University may in its discretion immediately terminate an employee's employment

(without going through progressive discipline) under circumstances where the employee's acts or omissions, whether occurring during work or away from work, cause harm or pose a significant risk of harm to the University or otherwise constitute serious misconduct. Such acts or omissions include, but are not limited, to the following:

- a. Actions, threats of action, or omissions that harm the safety, privacy, or security of another;
  - b. Harassing or discriminatory behavior in violation of University policy or law;
  - c. Acts of dishonesty;
  - d. Fiscal misconduct;
  - e. Theft of property or taking University property without proper permission;
  - f. Falsification of employment application or University records, giving false information to others, or other fraudulent activity;
  - g. Violation of the Conflict of Commitment Policy;
  - h. Failure to comply with applicable federal and state laws or University policy;
  - i. Habitual or repeated performance issues; or
  - j. Other serious misconduct.
2. Prior to immediate termination, supervisors shall consult and receive approval from a campus Human Resources office and University Human Resources. Supervisors shall provide notice to the employee setting forth reasons for immediate termination and the effective date of termination, and allow the employee an opportunity to respond. Following the immediate termination, the supervisor shall document the action in writing, setting forth the reason(s) for the termination, and provide a copy to the employee.

### **Removal From the Workplace During an Investigation**

1. An employee may be removed from the workplace and placed on unpaid administrative leave in order to allow the University to investigate a situation. If the investigation concludes that there was no wrongdoing, then the administrative leave will be considered paid leave.
2. Prior to removing an employee from the workplace, supervisors shall consult with and have approval from a campus Human Resources office or from University Human Resources.



## **Open Door “Policy”**

The University is committed to working with its employees to resolve any questions or concerns they might have with regard to the University, including compensation, working conditions, policies, disciplinary action, procedures, or working relationships with co-workers and supervisors. To fulfill this commitment, the University has developed an open door “policy.” Therefore, employees are encouraged to communicate openly with their supervisors or Human Resources to address and resolve any workplace questions, problems or concerns they may have.

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## **Definitions**

*Staff Employee* – An employee in a budget line position who is eligible for such benefits as health care, life insurance, the IU tuition benefit, vacation, and other paid time off benefits, depending on the FTE status of the position.

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## **Sanctions**

Managers, supervisors, and employees who violate this policy are subject to corrective action, up to and including separation.

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